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Filed : September 29, 2003

### REMARKS

The December 28, 2008 Office Action was based upon pending Claims 7-38 and 45-50. This response amends Claims 7, 8, 11, 12, 14, 16, 17, 21, 25, 32-34, 45, and 50 as indicated above. Claims 9, 10, 13, 15, 18-20, 22-24, 26-31, 35-38, and 46-49 remain as previously pending. New Claims 51-54 are added. Thus, after entry of this Amendment, Claims 7-38 and 45-54 are pending and are respectfully presented for further consideration.

The Office Action rejects Claims 7-9, 11, 12, 15-19, 21, 23-25, 29, 31-38, 45-48 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Martinez (US 6,188,973) in view of Giorgio (US 5,905,867). The Office Action also rejects Claims 10, 14, 20, 30, and 49 under 35 U.S.C. § 103(a) as being unpatentable over Martinez in view of Giorgio and further in view of Treu (US 5,245,615). In addition, the Office Action rejects Claims 13, and 26-28 under 35 U.S.C. § 103(a) as being unpatentable over Martinez in view of Giorgio and further in view of U.S. Patent No. 6,188,973 to Lui. Claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Martinez in view of Giorgio and further in view of Vecoven (US Pub 2004/0210800).

The applicant has reviewed the Martinez, the Giorgio, the Treu, the Lui, and the Vecoven references. The Applicant also notes that the claims are amended to particularly point out and distinctly claim what the Applicants regard as the invention. For example, embodiments as recited by Claim 7 as currently amended include "A computer monitoring and diagnostic system, comprising:

a remote computer configured to provide at least some control of the system;

a one or more server computers, each server computer having a computing device and a housing and being in communication with the remote computer and any other server computers, wherein at least one of the server computers includes a plurality of canisters, each of the canisters having a plurality of card slots;

wherein the at least one server computer further comprises a plurality of canister controllers, wherein the canister controllers are configured to examine canister fan speeds associated with canister fans and to control power to the canisters;

wherein the at least one server computer further comprises a plurality of temperature detectors and wherein the system is further configured to monitor

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temperatures indicated by the temperature detectors and compare the indicated temperatures to a desired operating temperature range and, when the indicated temperature exceeds an upper limit of the range,

if the canister fan speed of least one canister fan is below a threshold, the canister controller is configured to automatically increase the canister fan speed of the at least one canister fan without user input and to automatically power down the system at least one server computer when the indicated temperature exceeds a warning threshold.”

The Applicant notes that Martinez fails to teach a computer monitoring and diagnostic system that **self-manages** the temperature of the system. Martinez monitors the temperature and generates a display thereof, but does not increase the speed of the cooling fans unless the user provides input to control the computer system components, such as cooling fans. See for example column 2 lines 14-15 or 63-67 or column 3, lines 60-67.

Giorgio teaches a system for monitoring and adjusting the operation of a computer system that can be networked. However, Giorgio fails to teach all of the aspects of the Applicants’ invention as claimed. For example, Giorgio fails to teach automatically powering down one or more server computers, when the sensed temperature conditions exceed a warning threshold

The Applicant notes that Treu teaches an NVRAM that can store an error log and various methods of handling the errors, but fails to teach at least certain other aspects of the Applicants’ invention.

The Applicant agrees with the Examiner’s observation that Liu et al. teaches monitoring for time-out and reset events in a computer system, but respectfully notes that Liu et al. fails to teach or suggest the other aspects of the Applicant’s claimed invention.

The Applicants note that the Vecoven et al. publication is based on an application 10/417,811 filed April 17, **2003** which is after the earliest priority dates of the Applicants’ invention of applications 60/046,397, 60/047,016, 60/046,416, 60/046,398, and 60/046,312 all filed May 13, **1997**. Vecoven et al. is thus not prior art to the Applicants’ invention and the citation of Vecoven et al. is improper.

The Applicants believe that the ordinary artisan at the time of invention and considering the art of record and the nature of the problems addressed would not have found the Applicants’ invention to be obvious. The Applicants believe that the subject application as amended is

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patentable under the requirements of 35 U.S.C. § 103(a) in view of the Martinez, the Giorgio, the Lui references, and the Treu references as well as the other prior art of record. The Applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) be withdrawn.

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### **CONCLUSION**

#### **No Disclaimers or Disavowals**

Although the present communication includes alterations to the claims and characterizations of claim scope and referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

The claims of the present application are different and possibly broader in scope than the claims as originally filed. To the extent any prior amendments or characterizations of the scope of any claim or referenced art could be construed as a disclaimer of any subject matter supported by the present disclosure, the Applicant hereby rescinds and retracts such disclaimer. Accordingly, the references previously considered in the application may need to be re-visited.

#### **Co-Pending Applications and Issued Patents of Assignee**

Applicant wishes to draw to the Examiner's attention to the following co-pending applications and issued patents of the present application's assignee.

<b>Serial Number</b>	<b>Title</b>	<b>Filed</b>	<b>Status</b>
08/942,402	DIAGNOSTIC AND MANAGING DISTRIBUTED PROCESSOR SYSTEM	Oct. 1, 1997	US 6,338,150 Issued 1/8/02
09/911,884	DIAGNOSTIC AND MANAGING DISTRIBUTED PROCESSOR SYSTEM	July 23, 2001	US 6,681,342 Issued 1/20/04
11/586,282	DIAGNOSTIC AND MANAGING DISTRIBUTED PROCESSOR SYSTEM	Oct. 25, 2006	Pending. Not yet examined.

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Applicants note that the entire file history for each of the related applications can be obtained by the Examiner from the database maintained by the Patent Office. Applicants, however, wish to confirm that Applicants would be pleased to provide copies of the file histories or any portions thereof if so requested by the Examiner.

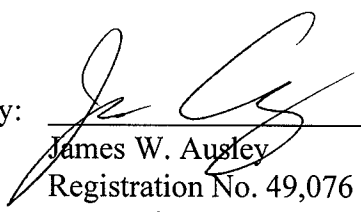
In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved. Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 28, 2008

By: \_\_\_\_\_

  
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